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July 7, 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, DC 20554

Re: Application of Ameritech Michigan Pursuant to Section 271 of the Telecommunications Act of 1996 to Provide In-Region InterLATA Services in Michigan (CC Docket 97-137)

Dear Mr. Caton:

Pursuant to the FCC's Public Notice DA 97-1072, released May 21, 1997, enclosed for filing in the above-referenced docket are the original and six copies of the "Reply Comments of WorldCom, Inc. in Opposition to Ameritech-Michigan Application for InterLATA Authority." We have also enclosed a diskette containing the reply comments in WordPerfect 5.1 format.

Please return a date-stamped copy of the enclosed (copy provided)

Respectfully submitted,

Linda L Oliver

Linda L. Oliver
Counsel for WorldCom, Inc.

Enclosures
cc: Ameritech (Kelly R. Welsh, John M. Dempsey, John Gockley, Stephen M. Shapiro, Kenneth S. Geller, Antoinette Cook Bush)
Dorothy Wideman, Secretary Michigan PSC
Donald Russell, Department of Justice
ITS, Inc.
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Reply of WorldCom, Inc.
Applicant: Ameritech
State: Michigan
Date: July 7, 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Application by Ameritech Michigan	)	
Pursuant to Section 271 of the	)	CC Docket No. 97-137
Telecommunications Act of 1996	)	
to Provide In-Region, InterLATA	)	
Services in Michigan	)	

REPLY COMMENTS OF WORLDCOM, INC., IN OPPOSITION TO AMERITECH-MICHIGAN APPLICATION FOR INTERLATA AUTHORITY

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July 7, 1997

SUMMARY

The comments filed in this case demonstrate that Ameritech — once again — has prematurely requested authority to provide interLATA services in Michigan.

First, local competition is just now beginning in Michigan and there is not yet a single competitor providing local exchange service to *both* business and residential customers exclusively or predominantly over its own facilities, as required by the Act. Accordingly, the FCC should reject arguments that Ameritech has satisfied the "competitive presence" test of Section 271(c)(1)(A). As it did with SBC's application for Oklahoma, the Commission should deny Ameritech's application based on its failure to satisfy "Track A" without reaching checklist compliance or the public interest test. 1/

Second, Ameritech has not satisfied the competitive checklist of Section 271(c)(2)(B). As the Department of Justice correctly points out, Ameritech is not even offering an unbundled local switching element that complies with the Act, much less actually "providing" that checklist item, as required by the Act. 2/

1/ Application of SBC Communications, Inc., Memorandum Opinion and Order, CC Docket No. 97-121, FCC 97-228 at ¶ 2 (rel. June 26, 1997) ("Oklahoma 271 Order")

2/ Evaluation of the United States Department of Justice at 11 (filed June 25, 1997) ("DOJ Michigan Evaluation").

Specifically, Ameritech is not providing common transport and it has refused to permit carriers that purchase unbundled switching to collect access charges.

The filings of many parties also demonstrate that Ameritech is still well short of meeting the competitive checklist requirement of nondiscriminatory access to operational support systems. As pointed out by the Department of Justice, the Commission cannot conclude that the checklist is satisfied until Ameritech establishes OSS performance standards and demonstrates that it has met them. 3/ The deficiencies in Ameritech's compliance with the unbundled switching, transport, and OSS checklist requirements warrants denial of Ameritech's application without reaching the other checklist items.

Finally, it is premature to conclude that interLATA entry would serve the public interest. If the FCC addresses the public interest test at all, it must reject the BOCs' arguments that the state of local competition is not a relevant factor in assessing the public interest. Indeed, the ability of carriers to enter and compete in the local market through each of the three methods established by Congress -- a carrier's own facilities, unbundled elements or resale -- is the single most important aspect of the public interest analysis. Only successful competitive entry will provide consumers a choice of local telephone service vendors. The Department of Justice correctly concluded that the local market in Ameritech's

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3/ Id. at 22.

Michigan territory is not yet irreversibly opened to competition, and that interLATA entry now by Ameritech therefore would not serve the public interest. 4/

4/ Id. at 31.

TABLE OF CONTENTS

Reply of WorldCom, Inc.
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REPLY COMMENTS OF WORLDCOM, INC., IN OPPOSITION TO AMERITECH-MICHIGAN APPLICATION FOR INTERLATA AUTHORITY

WorldCom, Inc., hereby submits its reply comments on the Section 271 1/ application for in-region interLATA authority filed by Ameritech-Michigan on May 21, 1997. The comments filed in this proceeding demonstrate that Ameritech has failed to satisfy the competitive presence test of Section 271(c)(1)(A) and that it is not providing all the items of the competitive checklist of Section 271(c)(2)(B). Either one of these deficiencies constitutes an independent basis for rejection of the application, without the need for an assessment of public interest considerations. If the Commission nevertheless undertakes a public interest determination, it must conclude that the public interest does not support Ameritech's entry into the interLATA market at the present time.

1/ Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (hereafter "1996 Act" or "Act"), 47 U.S.C. § 271.

I. AMERITECH IS NOT PROVIDING ACCESS AND INTERCONNECTION TO ONE OR MORE COMPETITORS THAT PROVIDE SERVICE TO RESIDENTIAL AND BUSINESS CUSTOMERS EXCLUSIVELY OR PREDOMINANTLY OVER THEIR OWN FACILITIES.

To satisfy the "competitive presence" test of Section 271(c)(1)(A), Ameritech must demonstrate that it is providing access and interconnection to one or more carriers that provide local service to residential and business customers exclusively or predominantly over their own facilities. 2/ Ameritech alleges that it meets this requirement through its agreements with MFS, Brooks Fiber and TCG. 3/

Significantly, all three of these carriers dispute Ameritech's characterization. WorldCom demonstrated in its comments that Ameritech had misstated the nature of MFS' operations in Michigan and that MFS is not presently providing service to business customers predominantly over its own facilities. 4/ MFS is not providing residential service at all. 5/ In its comments, TCG also has shown that it is not providing service predominantly over its own facilities. 6/ Brooks acknowledges that it serves business and residential customers, but states

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2/ 47 U.S.C. § 271(c)(1)(A).

3/ Ameritech Brief at 2-3.

4/ WorldCom Comments at 4-5.

5/ Id.

6/ TCG Comments at 25-26.

that because 61 percent of its business customers and 90 percent of its residential customers are served over facilities provided by Ameritech, it is not providing service predominantly over its own telephone exchange service facilities. . . .". 7/

Ameritech argues that regardless of whether a carrier is providing service to residential customers, it should be permitted to count that carrier as satisfying the competitive presence test. Ameritech contends that so long as the BOC has an agreement with at least one carrier that serves residential customers, the BOC can state that *collectively* the Track A carriers serve both business and residential customers. 8/ This interpretation of the statute is incorrect. As the Department of Justice correctly points out, a carrier cannot be counted as meeting the Section 271(c)(1)(A) test unless it is providing competing local service to both business and residential customers. 9/ Consequently, the Department correctly concludes that MFS and TCG cannot be counted as carriers that meet the Track A test, on the ground that neither carrier provides service to residential customers. 10/

7/ Brooks Opposition at 7.

8/ Ameritech Brief at 9; see also BellSouth/SBC Comments at 2.

9/ DOJ Michigan Evaluation at 6.

10/ DOJ Michigan Evaluation at 6 ("In the absence of residential service, MFS and TCG cannot be considered facilities-based providers that can be used to satisfy Track A.")

WorldCom respectfully disagrees, however, with the Department of Justice's apparent conclusion that Brooks Fiber's competitive activity -- and Brooks Fiber alone -- is sufficient to satisfy the Track A competitive presence test. 11/ The Department suggests that Brooks can be deemed to be providing service "predominantly over its own facilities" because Brooks provides "significant switching and transport of its own," as well as "a substantial share of its own local loops." 12/ Although we agee that the issue of "predominance" is "necessarily one of degree," 13/ a stronger evidentiary showing must be made before a carrier can be deemed to be providing service predominantly over its own facilities.

Second, Brooks serves about 22,000 customers, or only about .4 percent of Ameritech's total access lines. 14/ Fewer than 6,000 of these customers are residential customers, or fewer than .2 percent of all residential access lines. 15/ Thus, of the millions of residential customers in Michigan, only a tiny percentage are served by Brooks. While we do not suggest that the competitive presence test

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11/ DOJ Michigan Evaluation at 6-7.

12/ Id. at 6.

13/ Id.

14/ Id. at B-6.

15/ This number repesents six thousand divided by 3.2 million reidential access ines. See Department of Justice Michigan Evaluation at B-2.

incorporates a market share benchmark or any other "metrics" analysis, we do contend that Congress meant the test to be more than *de minimis*.

Ameritech also cannot rely on unbundled network elements as currently offered, to satisfy the facilities-based requirement. BellSouth and SBC support Ameritech's argument that unbundled elements purchased from Ameritech constitute a CLEC's "own" facilities for purposes of determining whether Section 271(c)(1)(A) is satisfied. 16/ Because it concludes that Ameritech can rely on Brooks Fiber's service to business customers alone, the Department of Justice does not take a position with respect to the question whether unbundled network elements constitute a carrier's "own" facilities under Section 271 (c)(1)(A). 17/

WorldCom agrees with the Department that the Commission need not reach the question whether unbundled elements constitute a carrier's own facilities, but for a different reason. The purpose of the Section 271(c)(1)(A) "competitive presence" test is to ensure that a BOC faces some competition from a carrier that is not dependent on the BOC's facilities before it is authorized to provide interLATA services. 18/ Given this objective, the Commission cannot conclude that unbundled elements constitute a carrier's own facilities absent a convincing demonstration by

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16/ BellSouth/SBC Comments at 3.

17/ DOJ Michigan Evaluation at 7 n.11.

18/ H.R. Rep. No. 104-458, Joint Explanatory Statement of the Committee of Commerce at 148.

Ameritech that unbundled elements obtained from Ameritech are effectively the same as if the carrier actually owned the facilities. Many parties in this case, including the Department of Justice, and WorldCom itself, showed in their initial comments that, given the operational and other difficulties plaguing the provision of unbundled network elements, no CLEC today has the requisite degree of control over an unbundled element provided by Ameritech for that element to be considered the CLEC's own facilities. 19/ Accordingly, for purposes of the competitive presence test of Section 271(c)(1)(A), the Commission should take into account only facilities actually owned by a CLEC. 20/ To do otherwise would only reward Ameritech for its failure to make network elements function as effectively as if they were the carrier's own facilities.

19/ See, e.g. Brooks Opposition at 9 ("The fact that a CLEC may acquire an unbundled BOC access line or switch port does not change the fact that the price, availability, and quality of that facility are entirely within the BOC's control"); Comments of Department of Justice at 23 and at Appendix A; WorldCom Comments at 6-7.

20/ Because the Michigan PSC's conclusion that the competitive presence test was satisfied was based on the erroneous assumption that UNEs should be counted as a carrier's own facilities, that conclusion is not entitled to deference by this Commission. Consultation of the Michigan Public Service Commission at 10 ("MPSC Consultation").

II. AMERITECH'S FAILURE TO OFFER, LET ALONE PROVIDE, A COMPLIANT UNBUNDLED SWITCHING ELEMENT IS FATAL TO ITS APPLICATION.

The Department of Justice agrees with WorldCom and other parties that Ameritech has failed to meet the checklist items for unbundled local switching and transport. Like WorldCom and others, the Department concludes that Ameritech has failed to provide "common transport" as required by the Act and has failed to treat the ULS purchaser as the provider of switch and loop-related exchange access with respect to its local customers. 21/ The Department of Justice also correctly points out that because no carrier is actually using unbundled local switching or common transport (due to Ameritech's refusal to offer these items), Ameritech cannot satisfy the requirement that it provide nondiscriminatory access to the operations support systems underlying these checklist items. 22/

A. No Carrier Is Using Unbundled Local Switching at the Present Time Because Ameritech Has Refused to Provide a Compliant Unbundled Local Switching Offering.

WorldCom's arguments regarding Ameritech's failure to provide unbundled local switching are echoed by other CLECs as well as the Department of Justice. 23/ As the Department concluded, "Ameritech is not 'providing' unbundled

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21/ DOJ Michigan Evaluation at 11; WorldCom Comments at 13-33. See also Opposition of the Competitive Telecommunications Association at 18, 20.

22/ DOJ Michigan Evaluation at 19-21; WorldCom Comments at 9-11.

23/ See WorldCom Comments at 13-33.

local switching or unbundled local transport as either a legal or a practical matter to CLECs in Michigan." 24/ As a legal matter, the Department correctly concluded that Ameritech's offering is deficient because "Ameritech has refused to provide carriers purchasing unbundled switching with true shared local transport" and it has "not allowed users of unbundled local switching to collect the access charges for long distance service they provide through unbundled network elements." 25/ As a practical matter, the Department also found that "Ameritech still has not made the necessary showing that it possesses the technical capability of successfully provisioning unbundled local switching and transport." 26/

The Department recognized the importance of common transport to carriers seeking to provide service using a "platform" of network elements. The Department acknowledged that the platform concept "provides an important mode of CLEC entry" that is "most feasibly based upon the use of common transport." 27/ Furthermore, the Department noted that the Commission's rules require that ILECs not separate combinations of elements (e.g., switching and common transport) except upon request by the CLEC. 28/ Accordingly, the Department

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24/ DOJ Michigan Evaluation at 11.

25/ Id.

26/ Id. at 12.

27/ Id. at 15.

28/ 47 C.F.R. § 51.315(a), (b).

concluded that "Ameritech cannot receive Section 271 authority unless it makes common transport available, in conjunction with both unbundled switching and the 'network platform,' as both a legal and practical matter." 29/

In their comments supporting Ameritech's application, BellSouth and SBC assert that "CLECs' failure to order switching" is "irrelevant" and that Section 271 authority should be granted even if no carrier is using, or has requested, a particular checklist item. 30/ This line of reasoning is flawed for several reasons. First, it is incorrect to suggest that no carriers have "ordered" unbundled local switching. As evidenced by the comments of LCI and AT&T, among others, CLECs have gone to great lengths to request the ULS element, only to be rebuffed by Ameritech. 31/ Ameritech resisted even conducting a test of unbundled local switching as requested by these carriers (and as defined by the Department of Justice) until the Department intervened. Ameritech still has not granted LCI's request for a similar test. 32/ Moreover, as acknowledged by the Department of Justice, the supposed failure of CLECs to order unbundled switching is a fallacy because "[a]s a practical matter, Ameritech's restrictions on the ability of ULS

29/ DOJ Michigan Evaluation at 15.

30/ BellSouth/SBC Comments at 5.

31/ LCI Comments at 4-10; see also DOJ Michigan Evaluation at 10 ("potential competitors, including AT&T, MCI and LCI, have sought extensive unbundled switching arrangements as part of their requests for interconnection agreements").

32/ LCI Comments at Exhibit B (Affidavit of Anne K. Bingaman).

customers to self-provide or collect access charges effectively deter the purchase of ULS." 33/

Second, the SBC/BellSouth argument demonstrates the lengths to which the BOCs will go to manipulate the meaning and intent of the statute. If in fact no carrier has ordered a particular checklist item, that fact would be, at a minimum, a sign to the Commission that closer investigation is warranted before approval can be granted. If that review reveals that the element is not offered in compliance with the Act, the fact that there have been no orders serves to reinforce the conclusion that the checklist is not satisfied, not undermine it. Withholding availability of a network element should not, perversely, support checklist compliance.

The Michigan PSC notes that it resolved the issue of common transport against Ameritech in Ameritech's arbitration with AT&T, but that there still appear to be unresolved issues between the parties. 34/ The Michigan PSC states that further resolution of the issue may come from the FCC and/or through the trial Ameritech now is conducting with AT&T. 35/ The PSC is correct that the FCC may decide this issue in CC Docket No. 96-98. If the FCC does not decide the

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33/ DOJ Michigan Evaluation at 18.

34/ MPSC Consultation at 38.

35/ Id.

common transport issue in that docket before the deadline for ruling on this application, however, it must decide the issue here. As WorldCom made clear in its initial comments, current FCC rules, as well as the statute, already require Ameritech to offer shared (common) transport with unbundled local switching, and provide that the ULS purchaser is the access provider. 36/ Based on those decisions, the FCC can deny this application without acting on reconsideration. 37/

The FCC also must insist that Ameritech actually provide common transport and that it amend its agreements and tariffs to reflect this fact. And these things must be accomplished as of the date of the filing a grantable application. It is already too late for this deficient application. The Commission cannot approve an application under Section 271 based on speculation that a BOC might meet the checklist in the future. As demonstrated by Ameritech's continuing failure to provide intraLATA dialing parity as required under Michigan law, ordering Ameritech to do something does not mean that it will be done.

Moreover, the Michigan PSC's assertion that Ameritech will satisfy the ULS requirement once the common transport issue is "resolved" ignores major deficiencies in Ameritech's offering. In particular, resolution of the common

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36/ WorldCom Comments at 20-29.

37/ To our knowledge, no party sought reconsideration on the shared transport issue. WorldCom sought clarification that shared transport included end-office-to-end-office connections that did not pass through the tandem switch. See Petition for Clarification of WorldCom, Inc., CC Docket No. 96-98.

transport issue will not resolve Ameritech's failure to permit a carrier purchasing the ULS element to act as its customer's access provider. As noted by the Department of Justice, this Commission interpreted Section 251(c)(3) to require that purchasers of unbundled elements have the right to provide access to the customer served by those unbundled elements, and reaffirmed that finding in its recent decision reforming access charges. 38/ It should be self-evident that the Commission cannot approve a Section 271 application when a BOC is blatantly violating the Commission's own rules.

B. A Paper Offering Is Not Sufficient To Satisfy The Competitive Checklist.

The Commission should reject Bell Atlantic's argument that a BOC can satisfy the requirement to provide a checklist item merely by making the item available on paper. 39/ As WorldCom explained previously, a mere paper offering of a checklist item is insufficient to satisfy the requirement that the BOC provide each item. 40/ Congress used two different terms, "provide" and "offer," to distinguish between applications under Track A and Track B. The BOCs' interpretation of

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38/ Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Report and Order, CC Docket No. 96-98, FCC 96-325 at ¶ 363; Access Charge Reform, CC Docket No. 96-262, First Report and Order, FCC 97-158 at ¶ 337 (released May 16, 1997) ("Access Reform Order").

39/ Bell Atlantic Comments at 5.

40/ WorldCom Comments at 9.

"provide" to mean "make available" would render that distinction meaningless. The purpose of requiring a BOC actually to provide each checklist item is to ensure that the items are workable in practice, and not merely theoretically available. To allow Section 271 to be satisfied before certain checklist items are actually being used by entrants would reward carriers -- such as Ameritech -- that have actively frustrated attempts by CLECs to obtain and use unbundled elements to provide a truly competitive service. Ameritech's resistance to providing unbundled local switching and common transport is a prime example.

As the Department of Justice concludes in its comments on Ameritech's Michigan application, Ameritech could not even meet the less strict definition of "provide" advanced by the Department in its comments on the SBC-Oklahoma application. 41/ Ameritech itself concedes that it will not offer unbundled local switching and transport in a way that permits requesting carriers to serve as the access provider and to take advantage of the efficiencies of Ameritech's interoffice network. Moreover, Ameritech's failure to grant LCI's request for a test of the platform clearly demonstrates that Ameritech is not willing to take the steps necessary to put it in the position of being able to satisfy the

41/ WorldCom Comments at 12. WorldCom does not agree with the Department that "provide" could mean something short of actually providing a checklist item. But if the Commission were to reject our view of the meaning of the term, it should accept the Department's definition, at a minimum.

requirement that it provide these items. 42/ Ameritech's reluctance even to test the item as requesting carriers have defined it thus amounts to a high-stakes bet for Ameritech. If it ultimately loses its legal fight on the definition of unbundled switching and transport, it will have only itself to blame for being in a position where it cannot prove that it is actually providing the item as required by Section 271(c)(2)(B).

Indeed, Ameritech is not even close to being able to demonstrate compliance with the requirement to provide unbundled local switching. As explained by the Department of Justice, "it is important to observe actual commercial use, or at least convincing testing evidence, because [the ULS] element requires significant network capabilities that are not used in the provision of other network elements." 43/ Consequently, until Ameritech demonstrates that it actually can provide unbundled switching that complies with the requirements of the Act, Section 271 approval cannot be granted even under DOJ's interpretation of the statute.

In a similar vein, the Commission must reject Bell Atlantic's assertion that the Commission "never" can consider whether competitors are actually using OSS or any other checklist item in determining whether the competitive checklist

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42/ LCI Comments at 6-9.

43/ DOJ Michigan Evaluation at 18.

has been satisfied. 44/ According to Bell Atlantic, this would constitute the addition of an "actual competition" requirement to the checklist, which Bell asserts is forbidden under Section 271(d)(4). This extreme interpretation of the Act is totally unsupported. While Section 271(d)(4) prohibits the Commission from extending the checklist, it does not in any way limit how the Commission interprets the requirement to provide each of the 14 checklist items. It is entirely consistent with the purpose underlying Section 271, and with the language of Section 271(d)(4), for the Commission to require provision of each item to a carrier that actually uses the item.

III. SECTION 271 AUTHORITY CANNOT BE GRANTED UNTIL AMERITECH AFFIRMATIVELY DEMONSTRATES THAT IT IS PROVIDING NONDISCRIMINATORY ACCESS TO OPERATIONAL SUPPORT SYSTEMS.

It is now well-established that Congress' goal of local competition cannot be realized until an ILEC provides nondiscriminatory access to operational support systems. Nondiscriminatory access to OSS is the difference between an item that is available in theory and an item that can be used in fact. As the Department of Justice correctly concluded:

> Efficient wholesale support processes -- those manual and electronic processes, including access to OSS functions, that provide competing carriers with meaningful access to resale services, unbundled elements, and other items required by

44/ Bell Atlantic Comments at 8.

> Section 251 and the checklist of Section 271 -- are of critical importance in opening local markets to competition. 45/

As recognized by the Michigan PSC, "complete and appropriate standards have not as yet been adopted," and therefore it is not possible to conclude that Ameritech is providing nondiscriminatory access to this checklist item. 46/ While Ameritech has proposed some benchmarks by which to measure its performance, the Department correctly points out that Ameritech's efforts do not go far enough. Specifically, the Department found that there is "a lack of sufficient clarity in certain of the definitions presented" and a "failure to measure and report actual installation intervals for resale, installation intervals for unbundled loops, comparative performance information for unbundled elements, and repeat reports for the maintenance and repair of unbundled elements." 47/ The Department correctly points out that "Ameritech has yet to establish all of the necessary performance benchmarks to satisfy the Department's competitive assessment." 48/

A number of CLECs, including WorldCom, detailed in their initial comments the substantial problems they have faced so far in connection with

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45/ DOJ Michigan Evaluation at 21-22.

46/ MPSC Consultation at 33.

47/ DOJ Michigan Evaluation at 40.

48/ Id.

nondiscriminatory access to OSS. 49/ The Department concluded, based on those submissions, that Ameritech had failed to demonstrate nondiscriminatory access to OSS for a number of items. For example, based on the experience of Brooks and WorldCom's subsidiary, MFS, the Department concluded that Ameritech cannot demonstrate that it has achieved parity with its own operations in connection with unbundled loops. 50/ The Department correctly emphasized the importance of performance standards to its ability to evaluate the BOC's compliance with the Act's nondiscrimination requirements.

49/ See, e.g. WorldCom Comments at 33-42; LCI Comments at 10-21; Brooks Opposition at 13-26. WorldCom feels compelled to clarify several issues surrounding its testing of Ameritech's pre-ordering systems. MFS did engage in carrier-to-carrier testing of Ameritech's pre-ordering capabilities in April of this year. As Joseph Rogers states in his affidavit supporting Ameritech's application, MFS encountered some "vendor-related problems, in particular a 'bug' in the software they (WorldCom) had purchased." Rogers Affidavit at ¶ 26. Mr. Rogers failed to explain that the vendor is Telesphere, who developed the pre-order system software on behalf of Ameritech for use by other carriers such as WorldCom. Second, despite Mr. Rogers's assertion that 'MFS' technical people also considered the test to be successful," there is a wide difference between a successful test and a satisfactory pre-ordering system -- evidenced by the unacceptable 14% error rate that Ameritech's own figures indicate. Department of Justice Evaluation at A-7, citing Rogers Affidavit at ¶ 26. Finally, contrary to Mr. Rogers affidavit, MFS did provide its proprietary internal assessment of the test to Ameritech in writing to Mr. Tim Gilles of Mr. Rogers' organization at Ameritech. That assessment detailed several problem areas in which Ameritech's pre-ordering system is in need of improvement. WorldCom believes that the test was conducted subject to a non-disclosure agreement, to which WorldCom will continue to adhere.

50/ DOJ Michigan Evaluation, Appendix A, at A-20.

The BOCs respond to this showing by stating that a Section 271 proceeding is "not an appropriate forum for opponents to raise any and all implementation 'problems.'" 51/ This statement totally mischaracterizes what WorldCom and others have attempted to do in this proceeding. The purpose of demonstrating the implementation problems that exist is not to use the Section 271 process as a surrogate for the complaint process, but rather to demonstrate the sheer magnitude of problems that still exist. As the Department of Justice correctly recognizes, the critical point is that once Ameritech has been granted interLATA entry, any incentive it now has to resolve implementation problems will disappear. 52/ Consequently, until the BOCs reach parity with their own operations, and the problems experienced by entrants diminish to the point where they do not interfere with the entrants' ability to compete with the BOC, then a grant of Section 271 authority would be premature.

Furthermore, the BOCs' assertion that these problems are nothing more than "a mere implementation glitch" and that "growing pains are inevitable" is disingenuous, to say the least. 53/ The record demonstrates that while some "glitches" have been successfully resolved by Ameritech, many problems still exist

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51/ BellSouth/SBC Comments at 9.

52/ DOJ Michigan Evaluation at 35 n.47.

53/ BellSouth/SBC Comments at 9.

that are solely a function of Ameritech's unwillingness to comply with the requirements of the Act and to cooperate with competitors. Ameritech's resistance to even testing a platform that includes unbundled switching, for example, has nothing to do with glitches or growing pains, and everything to do with the fact that Ameritech is acting like a monopolist intent on obstructing the development of competition.

In sum, until Ameritech provides each of the checklist items, along with nondiscriminatory access to appropriately tested and functioning support systems, there is no basis upon which the Commission can conclude that Section 271 is satisfied. A key component of compliance is the adoption of performance standards by which regulators, including the Commission, can measure whether Ameritech has met the statutory requirement of nondiscrimination.

IV. INTERLATA ENTRY BY AMERITECH IN MICHIGAN WOULD NOT SERVE THE PUBLIC INTEREST AT THIS TIME.

There is more than enough basis for the Commission to dismiss Ameritech's application summarily, based on Ameritech's failure to satisfy the competitive presence test of Section 271(c)(1)(A) and the competitive checklist test of Section 271(c)(2)(B). 54/ Therefore, as the Commission concluded with respect to SBC's application for Oklahoma, there is no need to reach the question of whether

54/ Oklahoma 271 Order at ¶ 2.